

REGULAR WEEKLY SESSION----ROANOKE CITY COUNCIL

January 20, 2004

2:00 p.m.

The Council of the City of Roanoke met in regular session on Tuesday, January 20, 2004, at 2:00 p.m., the regular meeting hour, in the City Council Chamber, fourth floor, Noel C. Taylor Municipal Building, 215 Church Avenue, S. W., City of Roanoke, Virginia, with Mayor Ralph K. Smith presiding, pursuant to Chapter 2, Administration, Article II, City Council, Section 2-15, Rules of Procedure, Rule 1, Regular Meetings, Code of the City of Roanoke (1979), as amended, and pursuant to Resolution No. 36414-070703 adopted by Council on Monday, July 7, 2003.

PRESENT: Council Members Linda F. Wyatt (arrived late), William D. Bestpitch, M. Rupert Cutler, Alfred T. Dowe, Jr., Beverly T. Fitzpatrick, Jr., C. Nelson Harris, and Mayor Ralph K. Smith-----7.

ABSENT: None-----0.

OFFICERS PRESENT: Darlene L. Burcham, City Manager; William M. Hackworth, City Attorney; Jesse A. Hall, Director of Finance; and Mary F. Parker, City Clerk.

The Invocation was delivered by The Reverend Bill Case, Pastor, Garden City Grace Brethren Church.

The Pledge of Allegiance to the Flag of the United States of America was led by Mayor Ralph K. Smith.

PRESENTATIONS AND ACKNOWLEDGMENTS:

DECEASED PERSONS: Mr. Fitzpatrick offered the following resolution memorializing the late Ernest W. Ballou, former Judge, Circuit Court:

(#36595-012004) A RESOLUTION memorializing the last Ernest W. Ballou, a native of Roanoke and retired Judge of the Twenty-third Judicial Circuit of the Commonwealth of Virginia.

(For full text of resolution, see Resolution Book No. 68.)

Mr. Fitzpatrick moved the adoption of Resolution No. 36595-012004. The motion was seconded by Mr. Cutler and adopted by the following vote:

AYES: Council Members Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, and Mayor Smith-----6.

NAYS: None-----0.

(Council Member Wyatt was not present when the vote was recorded.)

The Mayor presented a ceremonial copy of the above referenced measure to Robert S. Ballou, son of the late Judge Ballou.

(Council Member Wyatt entered the meeting.)

DECEASED PERSONS: Mr. Cutler offered the following resolution memorializing the late James N. Kincanon, former City Attorney, and President and Treasurer of the Roanoke Bar Association.

(#36596-012004) A RESOLUTION memorializing the late James N. Kincanon, former City Attorney, and President and Secretary/Treasurer of the Roanoke Bar Association.

(For full text of resolution, see Resolution Book No. 68.)

Mr. Cutler moved the adoption of Resolution No. 36596-012004. The motion was seconded by Mr. Fitzpatrick and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, and Mayor Smith-----7.

NAYS: None-----0.

The Mayor presented a ceremonial copy of the above referenced measure to Mrs. Kincanon.

DECEASED PERSONS: Mr. Dowe offered the following resolution memorializing the late Lawrence H. Hamlar, President and Co-owner of Hamlar Curtis Funeral Home, and Roanoke's 2000 Citizen of the Year.

(#36597-012004) A RESOLUTION memorializing the late Lawrence H. Hamlar, a native of Roanoke and President and co-owner of Hamlar-Curtis Funeral Home.

(For full text of resolution, see Resolution Book No. 68.)

Mr. Dowe moved the adoption of Resolution No. 36597-012004. The motion was seconded by Mr. Cutler and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, and Mayor Smith-----7.

NAYS: None-----0.

The Mayor presented a ceremonial copy of the above referenced measure to Ms. Brenda Miller, niece of the late Mr. Hamlar.

CONSENT AGENDA

The Mayor advised that all matters listed under the Consent Agenda were considered to be routine by the Members of Council and would be enacted by one motion in the form, or forms, listed on the Consent Agenda, and if discussion was desired, that item would be removed from the Consent Agenda and considered separately. He called specific attention to two requests for Closed Session.

MINUTES: Minutes of the regular meeting of Council held on Monday, November 17, 2003, and recessed until Friday, November 21, 2003; and Monday, December 1, 2003, were before the body.

The Mayor requested that the minutes be removed from the Consent Agenda for modification; whereupon, the request was approved by consensus of the Council.

CITY COUNCIL: A communication from Council Member Alfred T. Dowe, Jr., Chair, Personnel Committee, requesting that Council convene in a Closed Meeting to discuss the mid-year performance of three Council-Appointed Officers, pursuant to Section 2.2-3711 (A)(1), Code of Virginia (1950), as amended, was before the body.

Mr. Bestpitch moved that Council concur in the request of Council Member Dowe to convene in a Closed Meeting as above described. The motion was seconded by Mr. Cutler and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, and Mayor Smith-----7.

NAYS: None-----0.

CITY ATTORNEY-CITY COUNCIL: A communication from the City Attorney requesting that Council convene a closed meeting for consultation with legal counsel regarding actual litigation where such consultation in open session would adversely affect the City's negotiating or litigating posture, pursuant to §2.2-3711(A)(7), Code of Virginia (1950), as amended.

Mr. Bestpitch moved that Council concur in the request of the City Attorney to convene in a Closed Meeting as above described. The motion was seconded by Mr. Cutler and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, and Mayor Smith-----7.

NAYS: None-----0.

COMMITTEES-INDUSTRIES: A communication from William L. Bova tendering his resignation as a member of the Industrial Development Authority, effective January 9, 2004, was before Council.

Mr. Bestpitch moved that Council accept the resignation and that the communication be received and filed. The motion was seconded by Mr. Cutler and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, and Mayor Smith-----7.

NAYS: None-----0.

SCHOOLS-COMMITTEES-OATHS OF OFFICE: A report of qualification of Alvin L. Nash as a Trustee of the Roanoke City School Board, to fill the unexpired term of Melinda J. Payne, resigned, ending June 30, 2004; and Bittle W. Porterfield, III, as a member of the Roanoke Valley Resource Authority, for a term ending December 31, 2007, was before Council.

Mr. Bestpitch moved that the reports of qualification be received and filed. The motion was seconded by Mr. Cutler and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris and Mayor Smith-----7.

NAYS: None-----0.

REGULAR AGENDA

PUBLIC HEARINGS: NONE.

PETITIONS AND COMMUNICATIONS:

BUDGET-PENSION: C. R. Martin, representing the Roanoke City Retirees Association, requested a pay increase for City retirees for fiscal year 2005 and a supplement toward health insurance for City employees 65 years of age and older.

By consensus of the Council, the matter was referred to fiscal year 2004-05 budget study.

REPORTS OF OFFICERS:

CITY MANAGER:

BRIEFINGS: NONE.

ITEMS RECOMMENDATED FOR ACTION:

HOUSING/AUTHORITY-TOTAL ACTION AGAINST POVERTY-GRANTS: The City Manager submitted a communication advising that World Changers, a volunteer ministry of the North American Mission Board, Southern Baptist Convention (World Changers), brings together youth and adults from across the nation to participate in housing and related community service projects; last year, under a subgrant agreement with Blue Ridge Housing Development Corporation, Inc. (BRHDC), which provided Community Development Block Grant (CDBG) funding for materials and other support, approximately 450 World Changers volunteers assisted in repairing more than 40 homes in the City; during the project, housing of workers was provided by the Roanoke City School Board; given the success of the 2003 project and the productive working relationships that were established, the City, BRHDC and World Changers are looking to conduct another project during the summer of 2004; a total of \$80,000.00 in CDBG funds is to be committed to the 2004 project; and funds were authorized by Council, pursuant to Resolution No. 36591-010504, adopted on January 5, 2004, which amended the City's Consolidated Plan to add the 2004 World Changers project.

It was further advised that housing for World Changers volunteers will again be provided by the Roanoke City School Board; and arrangements are being finalized by BRHDC and the City's Youth Services Superintendent directly with school officials.

The City Manager recommended that she be authorized to execute a CDBG Subgrant Agreement with Blue Ridge Housing Development Corporation, Inc., to be approved as to form by the City Attorney.

Mr. Dowe offered the following resolution:

(#36598-012004) A RESOLUTION authorizing the City Manager to enter into a 2003-2004 Community Development Block Grant (CDBG) Subgrant Agreement with the Blue Ridge Housing Development Corporation, Inc., regarding the World Changers project, upon certain terms and conditions.

(For full text of Resolution, see Resolution Book No. 68.)

Mr. Dowe moved the adoption of Resolution No. 36598-012004. The motion was seconded by Mr. Harris and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, and Mayor Smith-----7.

NAYS: None-----0.

CITY CODE-BUILDINGS/BUILDING DEPARTMENT: The City Manager submitted communication advising that effective October 1, 2003, the Virginia Department of Housing and Community Development adopted the 2000 Edition of the Virginia Uniform Statewide Building Code (USBC) for the purpose of establishing minimum regulations to govern construction and maintenance of buildings and structures; provisions of the USBC are based on nationally recognized model building codes published by the International Code Council, Inc., and are made part of the USBC by reference; and the USBC also contains administrative provisions governing the use of model codes and establishing requirements for the enforcement of the code by local building departments and other code enforcement agencies.

It was further advised that amending the Code of the City of Roanoke, 1979, will reflect recent amendments to the Virginia USBC, by referring to updated code sections that were adopted by the State, and are enforced at the local level.

The City Manager recommended that Council adopt an ordinance amending Sections 7-5 and 7-35 of the Code of the City of Roanoke, 1979, as amended, to bring the City Code into conformity with recent amendments to the Virginia Uniform Statewide Building Code.

Mr. Dowe offered the following ordinance:

(#36599-012004) AN ORDINANCE amending §7-5, Adopted; where copies filed, and §7-35, Definitions, of Article II, Building Code, of Chapter 7, Building Regulations, of the Code of the City of Roanoke (1979), as amended, to update code enforcement regulations; and dispensing with the second reading by title of this ordinance.

(For full text of Ordinance, see Ordinance Book No. 68.)

Mr. Dowe moved the adoption of Ordinance No. 36599-012004. The motion was seconded by Mr. Cutler and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, and Mayor Smith-----7.

NAYS: None-----0.

BUDGET-SNOW REMOVAL: The City Manager submitted a communication advising that once again, the City is experiencing a higher than normal demand on snow removal resources; three storms that hit the City thus far have absorbed the bulk of snow removal funds budgeted for the 2003-2004 winter session; demands of last year's storms left the City's salt supplies depleted; limited resources and efforts to balance an overburdened budget resulted in a snow removal operating budget that could not fully replenish the City's salt supplies at the beginning of the winter season; an additional 3,300 tons of salt has been purchased and delivered to the salt storage facility restoring the City's total supply to approximately 4,800 tons (75% of the 6,500 ton capacity); and anticipated salt usage between January 1 and the end of the winter season equals approximately 3,000 tons based on the previous two-year average.

It was further advised that in addition to the purchase of salt, funds are also needed to cover overtime wages and other operations costs; an estimate of the 2003-2004 snow removal expenses was developed by adding the previous two-year average costs (January 1st through the end of the winter season) to the costs already incurred during the current season; and based on this projection, a budget adjustment of \$270,072.00 is needed to support the recent purchase of additional salt and anticipated expenses for the remainder of the winter season.

The City Manager recommended that Council approve transfer of funds in the amount of \$150,000.00 from City Manager Contingency (Account No. 001-300-9410-2199) and \$120,072.00 from Transportation-Streets and Traffic Regular Salaries, Account No. 001-530-4110-1002, to Snow Removal, Account Nos. 001-530-4140, as follows:

1003	Overtime Wages	\$ 105,641.00
1120	FICA	8,081.00
2035	Expendable Equipment	12,913.00
2038	Motor Fuels & Lubricants	6,722.00
2045	Chemicals	\$ 136,715.00

Mr. Fitzpatrick offered the following budget ordinance:

(#36600-012004) AN ORDINANCE appropriating funds for snow removal, amending and reordaining certain sections of the 2003-2004 General Fund Appropriations, and dispensing with the second reading by title of this ordinance.

(For full text of Ordinance, see Ordinance Book No. 68.)

Mr. Fitzpatrick moved the adoption of Ordinance No. 36600-012004. The motion was seconded by Mr. Dowe and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, and Mayor Smith-----7.

NAYS: None-----0.

POLICE DEPARTMENT-BUDGET-GRANTS: The City Manager submitted a communication advising that the Virginia Department of Criminal Justice Services (DCJS) provides grant funding for programs and activities which increase the apprehension, prosecution and adjudication of persons committing violent crimes against women; and the program, "Virginia Services, Training, Officers, Prosecution Violence Against Women" (VSTOP) has funded the establishment of a Domestic Violence Unit within the Police Department since 1999.

It was further advised that on December 29, 2003, DCJS awarded the Police Department \$34,023.00 to employ a full-time, non-sworn Domestic Violence Specialist, thereby allowing continuation of the Domestic Violence Unit in calendar year 2004; and the required City in-kind match of \$11,341.00 will be met through salary paid to current Police Department personnel, with no local cash match required.

It was noted that the Domestic Violence Unit collects and interprets relevant domestic violence offense data which allows proactive case intervention and cultivation of the cooperative working relationships with clients and service/adjudication agencies; and the program produces more equitable victim-offender criminal justice dispositions related to domestic violence offenses.

The City Manager recommended that Council accept the V-STOP grant and that she be authorized to execute the grant agreement and any related documents, in a form to be approved by the City Attorney; and that Council appropriate State grant funds in the amount of \$34,023.00, with a corresponding revenue estimate, in accounts to be established by the Director of Finance in the Grant Fund.

Appropriation:

<u>Description</u>	<u>Account</u>	<u>Amount</u>
Regular Employee Salaries	035-640-3326-1002	\$ 26,897.00
Retirement	035-640-3326-1105	2,044.00
FICA	035-640-3326-1120	2,058.00
Medicare Insurance	035-640-3326-1125	<u>3,024.00</u>
Total		\$ 34,023.00

Mr. Dowe offered the following budget ordinance:

(#36601-012004) AN ORDINANCE appropriating funds for the Police Department Domestic Violence Program Grant, amending and reordaining certain sections of the 2003-2004 Grant Fund Appropriations, and dispensing with the second reading by title of this ordinance.

(For full text of Ordinance, see Ordinance Book No. 68.)

Mr. Dowe moved the adoption of Ordinance No. 36601-012004. The motion was seconded by Mr. Fitzpatrick and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, and Mayor Smith-----7.

NAYS: None-----0.

Mr. Dowe offered the following resolution:

(#36602-012004) A RESOLUTION accepting the Virginia Services, Training, Officers, Prosecution (VSTOP) Violence Against Women Grant offer made to the City by the Virginia Department of Criminal Justice Services and authorizing execution of any required documentation on behalf of the City.

(For full text of Resolution, see Resolution Book No. 68.)

Mr. Dowe moved the adoption of Resolution No. 36602-012004. The motion was seconded by Mr. Fitzpatrick and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, and Mayor Smith-----7.

NAYS: None-----0.

BUDGET-HUMAN DEVELOPMENT-LEASES: The City Manager submitted a communication advising that in November 2001, the City of Roanoke entered into a lease agreement for office space for the Department of Human Services and the Health Department with Blue Eagle Partnership for property located at the Civic Mall, 1501 Williamson Road, N. W.; the Department of Human Services will relocate its offices to the Civic Mall, for a lease term of 20 years, commencing on June 1, 2003 and expiring on May 31, 2023; and prior to the commencement date, the Lessor will complete renovations and improvements to the premises in an amount not to exceed \$2,497,080.00.

It was further advised that in November 2002, Council approved Lease Amendment No.1, however, the lease was not, and will not be executed due to lack of funding for the Health Department's portion of the leased premises; therefore, both parties desire to amend the Lease Agreement, as follows:

- The third floor of the building will be occupied by the Department of Human Services, and the second floor will not be occupied by the Health Department at this time due to lack of funding from the State.
- The term of the lease will commence on January 20, 2004, and expire on January 19, 2024.
- The rent for the building will only include the rental amount for the third floor by the Department of Human Services.
- Clarification of the responsibilities of the Lessor and Lessee as to repairs and improvements.

The City Manager recommended that she be authorized to execute Lease Amendment No. 1, in a form to be approved by the City Attorney.

Mr. Harris offered the following ordinance:

(#36603-012004) AN ORDINANCE authorizing the City Manager to enter into an amendment to the Lease Agreement dated November 21, 2001, between the City and Blue Eagle Partnership, relating to certain property located at the Civic Mall, 1501 Williamson Road, Roanoke, Virginia, being leased for use by the Department of Human Services, upon certain terms and conditions, and dispensing with the second reading by title of this ordinance.

(For full text of Ordinance, see Ordinance Book No. 68.)

Mr. Harris moved the adoption of Ordinance No. 36603-012004. The motion was seconded by Mr. Dowe and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, and Mayor Smith-----7.

NAYS: None-----0.

AIRPORT-TRAFFIC-BUSES-STATE HIGHWAYS-BRIDGES: The City Manager submitted a communication advising that the *Public-Private* Transportation Act of 1995 (PPTA) was adopted by the General Assembly to enable the Commonwealth of Virginia, qualifying local governments and certain other political entities to enter

into agreements authorizing private entities to acquire, construct, improve, maintain and/or operate qualifying *transportation* facilities, such as roads, bridges, airports, mass transit facilities, and parking facilities.

It was further advised that the *PPTA* encourages public/private ventures for transportation facilities which will result in facilities being constructed in a faster and/or less costly manner, and which utilize innovative financing methods; the *PPTA* allows private entities to develop both solicited and unsolicited proposals, and prescribes the method to be employed by local governments in evaluating same; and while the Virginia Public Procurement Act (*VPPA*) does not apply to projects considered under the *PPTA*, local governments must use procurement procedures that are consistent with either competitive sealed bidding or competitive negotiation for other than professional services, as defined in the *VPPA*.

In summary, it was explained that the intent of the legislation is to encourage public-private partnerships in providing transportation facilities by facilitating more flexibility and creativity in the construction and financing of such projects; however, flexibility and creativity must be within the structure of the Act.

The City Manager advised that a substantial number of *PPTA* projects are underway, or under construction across the State, including the Interstate 81 widening project; many of these projects would likely not be built or would be long delayed if not for the public-private partnership approach; and the demonstrated success of the *PPTA*, combined with the mounting list of unmet infrastructure needs and the scarcity of public resources, led the General Assembly to adopt the *Public-Private Education Facilities and Infrastructure Act of 2002 (PPEA)*.

It was further advised that the *PPEA* provides the flexibility for local governments, like Roanoke, to create public-private partnerships to meet a wide range of infrastructure needs, such as *Schools and related facilities (including stadiums or other facilities used for school events), other public buildings or facilities, utility and communications infrastructure, recreation facilities, and technology infrastructure*; like the *PPTA*, its intent is to encourage public-private partnerships in providing qualifying projects in a faster, less costly manner by allowing more flexibility and creativity in the construction and financing of such projects; the *VPPA* does not apply to projects under *PPEA*, but local governments must utilize procurement procedures that are consistent with either competitive sealed bidding or competitive negotiation for other than professional services, as defined in the *VPPA*; and local governments are required to adopt procedures consistent with the *PPEA* before any such proposal can be considered.

It was explained that staff has developed implementation procedures based on an evaluation of *PPEA* requirements and procedures adopted by other Virginia local governments, including Roanoke County.

The City Manager recommended that Council approve and adopt the Procedures for the Public-Private Education facilities and Infrastructure Act of 2002; and authorize the Director of General Services to make such procedure publicly available, which may include posting on the City's website; and further authorize the City Manager to take such further action as may be necessary, including development of guidelines, to implement and administer such procedures.

Mr. Fitzpatrick offered the following ordinance:

(#36604-012004) AN ORDINANCE adopting procedures for the Public-Private Education Facilities and Infrastructure Act of 2002; authorizing the City's Director of General Services to make such procedures publicly available; authorizing the City Manager to take such further action as may be necessary to implement and administer such procedures; and dispensing with the second reading by title of this ordinance.

(For full text of Ordinance, see Ordinance Book No. 68.)

Mr. Fitzpatrick moved the adoption of Ordinance No. 36604-012004. The motion was seconded by Mr. Dowe and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, and Mayor Smith-----7.

NAYS: None-----0.

CITY ATTORNEY:

CITY ATTORNEY-CLERK OF CIRCUIT COURT: A report of the City Attorney with regard to a contract with the Clerk of the Circuit Court was deferred until the 7:00 p.m. Council Session.

CITY CLERK:

SCHOOLS: The City Clerk submitted a written report advising that pursuant to Chapter 9, Education, Code of the City of Roanoke (1979), as amended, establishing a procedure for the election of School Trustees, the terms of office of Alvin L. Nash and Ruth C. Willson will expire on June 30, 2004.

It was further advised that pursuant to Section 9-16, Code of the City or Roanoke (1979), as amended, on or before February 15 of each year, Council shall announce its intention to elect Trustees of the Roanoke City School Board for terms commencing July 1 through (1) public announcement of such intention at two consecutive regular sessions of the Council and (2) advertisement of such intention in a newspaper of general circulation in the City twice a week for two consecutive weeks; Section 9-17 of the City Code provides that applications must be filed in the

City Clerk's Office by March 10 of each year; applications will be available in the City Clerk's Office and may be obtained between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, or applications may be completed online at the City of Roanoke's web page www.roanokegov.com; and information describing the duties and responsibilities of School Trustees may be obtained in the City Clerk's Office.

Without objection by Council, the Mayor advised that the report would be received and filed.

DIRECTOR OF FINANCE:

BONDS/BOND ISSUES: The Director of Finance submitted a written report advising that the City issued \$23 million of Series 1996A and \$8.3 million of Series 1996B bonds dated January 1, 1996; the bonds were issued to fund various projects including education, infrastructure, buildings, parks and economic development; maturities on and after February 1, 2007, totaling \$23.6 million are callable, and interest rates on the callable maturities of the bonds range from 4.9 per cent to 5.0 per cent.

It was further advised that the City issued \$13.01 million of Series 1997A bonds dated December 16, 1997; the bonds were issued to fund various projects including education, infrastructure, buildings, parks and economic development; maturities on and after August 1, 2007, totaling \$7.15 million are callable, and the interest rate on each of the maturities is 5.0 per cent.

The Director of Finance explained that the City issued \$26,020,000.00 of Series 1999A and \$10,100,000.00 of Series 1999B bonds dated October 15, 1999; the bonds were issued to fund various projects including schools, buildings, storm drains, the Roanoke Higher Education Center, the Johnson and Johnson project and other infrastructure projects; maturities on and after October 1, 2010, totaling \$19.19 million are callable, and interest rates on the callable maturities of the bonds range from 5.0 per cent to 6.0 per cent.

It was noted that based on recent municipal bond interest rates, the City could potentially realize considerable savings by refunding a portion of the 1996, 1997 and/or 1999 bonds; resulting savings would be contingent upon the combination of the interest rate received on the refunding bonds and the interest rate obtained on the Treasury certificates purchased to fund the escrow to be used to pay the current outstanding bonds when the bonds become callable; based upon discussions with the City's financial advisor, BB&T Capital Markets, it is believed that an appropriate level of savings to justify refunding the 1996 bonds would be a net present value amount of \$500,000.00, provided that savings of at least three per cent of net present value of the refunded bonds could also be achieved; and appropriate level of savings to justify refunding the 1997A bonds would be a net

present value amount of \$200,000.00, provided that savings of at least three per cent of net present value of the refunded bonds could also be achieved; an appropriate level of savings to justify refunding the 1999 bonds would be a net present value amount of \$500,000.00, provided that savings of at least four per cent of net present value of the refunded bonds could also be achieved.

It was advised that since interest rates fluctuate daily, it is imperative to the success of a refunding that the City act quickly once interest rates enable use to achieve an acceptable level of savings, thus, a negotiated sale, versus an open market competitive sale, can be accomplished in a much shorter timeframe and is deemed more practical in this situation; in order to conduct an evaluation of the most advantageous underwriter or syndicate of underwriters to utilize in this situation, the City has invited several firms to analyze the refunding opportunities using the same date upon which to base market conditions; a team of personnel from the City's Department of Finance and the City's financial advisor, BB&T Capital Markets, will evaluate the responses to the analyses and make selections accordingly; and refunding bonds will be considered additional debt in the context of the City's debt policy and from the rating agencies' perspective only to the extent that a slightly higher level of principal would need to be issued than the amount of bonds being refunded.

The Director of Finance recommended that Council adopt a resolution authorizing the City Manager and the Director of Finance to issue up to \$60 million in refunding bonds to be sold by an underwriting firm, or firms, to be selected by the Director of Finance; refunding bonds shall be issued to refund the 1996 bonds if net present value savings of \$500,000.00 and a minimum of three per cent of the net present value of the 1996 bonds can be achieved; refunding bonds shall be issued to refund the 1997A bonds if net present value savings of \$200,000.00 and a minimum of three per cent of the net present value of the 1997A refunded bonds can be achieved; and refunding bonds shall be issued to refund the 1999 bonds if net present value savings of \$500,000.00 and a minimum of four per cent of the net present value of the 1999 refunded bonds can be achieved.

Mr. Cutler offered the following resolution:

(#36605-012004) A RESOLUTION authorizing the issuance and sale at negotiated sale of not to exceed sixty million dollars (\$60,000,000.00) principal amount of City of Roanoke, Virginia, general obligation public improvement refunding bonds; fixing the form, denomination and certain other details of such bonds and delegating to the City Manager and the Director of Finance authority, among other things, to select an underwriter for such bonds, to execute and deliver to such underwriter a bond purchase contract by and between the City and such underwriter, to determine the aggregate principal amount of such bond, the maturity dates of such bonds and the principal amounts of such bonds maturing in each year, the interest payment dates for such bonds and the rates of interest to be borne by such bonds, the redemption provisions and redemption premiums, if any,

applicable to such bonds and to appoint an escrow agent for the bonds to be refunded from the proceeds of such bonds; authorizing the preparation of a preliminary official statement and an official statement and the delivery thereof to such underwriter; authorizing the execution and delivery of a continuing disclosure certificate relating to such bonds; authorizing the execution and delivery of an escrow deposit agreement relating to the refunded bonds; authorizing the City Manager and the Director of Finance to appoint a verification agent; authorizing the City Manager and the Director of Finance to designate the refunded bonds for redemption; and otherwise providing with respect to the issuance, sale and delivery of such bonds and the refunding of the refunded bonds.

(For full text of Resolution, see Resolution Book No. 68.)

Mr. Cutler moved the adoption of Resolution No. 36605-012004. The motion was seconded by Mr. Harris and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, and Mayor Smith-----7.

NAYS: None-----0.

BUDGET-SCHOOLS: A communication from the Roanoke City School Board requesting that Council approve the following appropriations and transfers:

- \$86,809.00 from the 2003-2004 Capital Maintenance and Equipment Replacement Fund to provide monies for musical instrument replacement, health equipment, instructional technology equipment, administrative technology equipment, custodial equipment, grounds improvements, and transportation facility fixtures.
- \$500,000.00 for architect fees for the Patrick Henry High School project.
- \$46,300.00 for the Special Education Interpreter Training program to provide funds for development of training curriculum for the hearing impaired program, which is a continuing program that will be reimbursed 100 per cent by Federal funds.
- \$15,000.00 for the Chess Program. A private donation has been received for this continuing program.
- \$8,250.00 for the Western Virginia Regional Science Fair, which is a continuing program that will be funded with contributions from participating school districts, corporate and individual contributions, and a local match.

- \$42,225.00 for the Patrick Henry Youth Court Program, which will provide instruction in the legal process and will allow for alternative disciplinary actions, to be reimbursed with Federal funds.

A report of the Director of Finance recommending that Council concur in the request of the School Board, was also before the body.

Mr. Fitzpatrick offered the following budget ordinance:

(#36606-012004) AN ORDINANCE to appropriate funding for equipment from the Capital Maintenance and Equipment Replacement Program (CMERP), architect fees for the Patrick Henry High School project and several grants, amending and reordaining certain sections of the 2003-2004 School, School Capital Project and School Food Service Funds Appropriations and dispensing with the second reading by title of this ordinance.

(For full text of Ordinance, see Ordinance Book No. 68.)

Mr. Fitzpatrick moved the adoption of Ordinance No. 36606-012004. The motion was seconded by Mr. Dowe and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, and Mayor Smith-----7.

NAYS: None-----0.

ROANOKE NEIGHBORHOOD PARTNERSHIP: Carl D. Cooper, Chair-Elect, Roanoke Neighborhood Advocates, presented a report advising that the Roanoke Neighborhood Advocates (RNA) was established pursuant to Resolution No. 36397-061603 adopted by Council on June 16, 2003, and is charged with the responsibility of fulfilling eight goals, defined as "duties and responsibilities; and Resolution No. 36397-061603 instructed the Roanoke Neighborhood Advocates to submit its By-Laws and Strategic Plan for approval by Council by December 30, 2003.

Mr. Cooper presented the proposed By-Laws and Strategic Plan for the RNA, and advised that although the documents address the structure and the way that the RNA would like to carry out its work, they are subject to change as knowledge of community issues grow.

(See By-Laws and Strategic Plan on file in the City Clerk's Office.)

It was the consensus of Council that the Strategic Plan and By-Laws would be referred to the City Manager for staff review and to the City Attorney for preparation of the proper measure for consideration by Council at the next regular meeting on Monday, February 2, 2004.

UNFINISHED BUSINESS: NONE.

INTRODUCTION AND CONSIDERATION OF ORDINANCES AND RESOLUTIONS: NONE.

MOTIONS AND MISCELLANEOUS BUSINESS:

INQUIRIES AND/OR COMMENTS BY THE MAYOR, VICE-MAYOR AND MEMBERS OF CITY COUNCIL: NONE.

HEARING OF CITIZENS UPON PUBLIC MATTERS: The Mayor advised that Council sets this time as a priority for citizens to be heard, and matters requiring referral to the City Manager will be referred immediately for any necessary and appropriate response, recommendation or report to Council.

SIDEWALK/CURB AND GUTTER-COMPLAINTS-HOUSING AUTHORITY-COMMUNITY PLANNING- STREETS AND ALLEYS: Mr. Chris Craft, 1501 East Gate Avenue, N. E., advised that northeast Roanoke, and specifically the East Gate community, has been ignored in the City's Comprehensive Plan. He referred to problems associated with water run off due to the lack of storm drains and curb and gutter in the East Gate Community; the need for storm doors for Lincoln Terrace residents; sidewalks on Orange Avenue are in need of repair; and the need to pave streets in the East Gate community, specifically 20th Street, N. E.

CITY MANAGER COMMENTS:

FIRE DEPARTMENT: The City Manager called attention to a fire that occurred at a local apartment complex over the weekend in which a child lost his life. She referred to the importance of working smoke detectors which are available through the City's Fire Department and will be installed upon request and with the permission of the home owner.

At 3:00 p.m., the Mayor declared the Council meeting in recess for two Closed Sessions.

At 7:00 p.m., on Tuesday, January 20, 2004, the Council meeting reconvened in the City Council Chamber, fourth floor, Noel C. Taylor Municipal Building, 215 Church Avenue, S. W., City of Roanoke, Virginia, with Mayor Ralph K. Smith presiding.

PRESENT: Council Members William D. Bestpitch, M. Rupert Cutler, Alfred T. Dowe, Jr., Beverly T. Fitzpatrick, Jr., C. Nelson Harris, Linda F. Wyatt and Mayor Ralph K. Smith-----7.

ABSENT: None-----0.

OFFICERS PRESENT: Darlene L. Burcham, City Manager; William M. Hackworth, City Attorney; Jesse A. Hall, Director of Finance; and Mary F. Parker, City Clerk.

The meeting was opened with prayer by Mayor Smith.

The Pledge of Allegiance to the Flag of the United States of America was led by Mayor Smith.

PRESENTATIONS AND ACKNOWLEDGEMENTS:

ACTS OF ACKNOWLEDGEMENTS:

On behalf of the Members of Council, the Mayor advised that he was pleased to present a Shining Star Award to Ms. Elizabeth Baker. He stated that Ms. Baker's grandmother purchased Saleeba's Grocery Store at 926 Tazewell Avenue, S. E., in 1940, her mother worked in the store for over 50 years providing service to southeast Roanoke residents, and Ms. Baker has continued to operate the neighborhood retail store and contribute to the "village center" concept. He stated that Ms. Baker also works a second job as a nurse, yet she continues this fine tradition that was started by her family in 1940.

PUBLIC HEARINGS:

ZONING: Pursuant to Ordinance No. 35523 adopted by the Council on Monday, April 6, 1981, the City Clerk having advertised a public hearing for Tuesday, January 20, 2004, at 7:00 p.m., or as soon thereafter as the matter may be heard, on a request of Creekside Center, LLC, to rezone two tracts of land located at the intersection of Shenandoah Avenue and Peters Creek Road, N. W., identified as Official Tax Nos. 6030116 and 6030106, from RM-2, Residential Multi-Family, Medium Density District, to C-2, General Commercial District, the matter was before the body.

Legal advertisement of the public hearing was published in *The Roanoke Times* on Friday, January 2, 2004 and Friday, January 9, 2004.

The City Planning Commission submitted a written report advising that the two subject parcels are surplus properties owned by the Virginia Department of Transportation; and the petitioner is the contract purchaser of two vacant properties, which total 0.136 acre.

It was further advised that two commercial tracts adjoining the subject parcels were rezoned in 1998 to C-2, with conditions, to permit the construction of a Food Lion grocery store with two outparcels; the petitioner plans to purchase the two outparcels for development for retail purposes; conditions on the C-2 outparcels include limitations on use of the property, specifically prohibiting

outdoor advertising, automobile repair, establishments primarily engaged in the sale or rental of automobiles, trucks and construction equipment, and automobile painting and body shops; and the petitioner's request to rezone the adjoining surplus properties of the Virginia Department of Transportation (VDOT) would permit development of the two outparcels without the side yard depth and landscaped buffer that would otherwise be required on the C-2 properties because of their being contiguous with residentially-zoned parcels.

It was noted that the two surplus properties owned by VDOT, as a result of the Peters Creek Extension, are no longer viable residential properties; approval of the rezoning request would provide for more flexibility in the development of the two outparcels on the Food Lion tract; and the request to rezone the two subject parcels is consistent with the policies of Vision 2001-2020 to encourage commercial development in appropriate areas (i.e., key intersections and centers) of Roanoke and to maximize utilization of commercial sites.

The City Planning Commission recommended approval of the proposed rezoning, given the size and surplus status of the two subject properties and the adjoining C-2 tracts of land and their potential commercial development.

Mr. Dowe offered the following ordinance:

(#36607-012004) AN ORDINANCE to amend §36.1-3, Code of the City of Roanoke (1979), as amended, and Sheet No. 603, Sectional 1976 Zone Map, City of Roanoke, to rezone certain property within the City; and dispensing with the second reading by title of this ordinance.

(For full text of Ordinance, see Ordinance Book No. 68.)

Mr. Dowe moved the adoption of Ordinance No. 36607-012004. The motion was seconded by Mr. Fitzpatrick.

Maryellen F. Goodlatte, Attorney, appeared before Council in support of the request of her client.

The Mayor inquired if there were persons present who would like to be heard in connection with the matter. There being none, he declared the public hearing closed.

There being no discussion or comments by Council Members, Ordinance No. 36607-012004 was adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, and Mayor Smith-----7.

NAYS: None-----0.

WATER RESOURCES: Pursuant to Ordinance No. 35523 adopted by the Council on Monday, April 6, 1981, the City Clerk having advertised a public hearing for Tuesday, January 20, 2004, at 7:00 p.m., or as soon thereafter as the matter may be heard, on a request of the Western Virginia Water Authority to acquire, finance, construct, operate, manage and maintain a water, waste water, sewage disposal and storm water control system and related facilities, pursuant to the Virginia Water and Waste Water Authorities Act, the matter was before the body.

Legal advertisement of the public hearing was published in *The Roanoke Times* on Friday, December 20, 2003.

The Mayor advised that the purpose of the public hearing is to gather public input on the creation of a regional water and wastewater authority. He stated that the last drought convinced community leaders in Roanoke and Roanoke County that a better plan for the Roanoke Valley's water supply was needed; therefore, on February 27, 2003, Council and the Roanoke County Board of Supervisors voted to authorize and direct their staffs to jointly plan such an authority, in order to become true partners in meeting the water and wastewater needs of their citizens and businesses.

He explained that City and County employees have been busy since that time planning the merger of operations in both jurisdictions to form the Western Virginia Water Authority; and in September, 2003, seven community meetings were held at locations in Roanoke County and the City of Roanoke to solicit citizen input on the Authority and to answer questions raised by residents. He advised that currently under consideration is a concurrent resolution containing Articles of Incorporation that define the Authority and authorize the City Attorney to file the Articles of Incorporation with the State Corporation Commission; among other things, the Articles of Incorporation specify the new name of the Authority which is the Western Virginia Water Authority, create a seven member board to oversee the Authority, and empower the Authority to manage water and wastewater assets in the best interest of both City and County residents.

The City Manager submitted a communication advising that the Western Virginia Water Authority will be responsible for all functions and operations in the combined City and County service area, including operation and maintenance of facilities, finances, bonding, rate setting, billing, and capital construction; utility assets and current utility employees from both jurisdictions will be transferred to the Authority; City Council and the Roanoke County Board of Supervisors are responsible for appointing members to the Authority's seven member governing board; and a concurrent resolution also allows for delegation of storm water operations if desired at a late date.

The City Manager recommended that Council adopt a concurrent resolution creating the Western Virginia Water Authority and authorizing the City Attorney to file the Articles of Incorporation with the State Corporation Commission.

Mr. Fitzpatrick offered the following resolution:

(#36608-012004) A RESOLUTION creating the Western Virginia Water Authority.

(For full text of Resolution, see Resolution Book No. 68.)

The Mayor inquired if there were persons present who would like to be heard in connection with the matter. There being none, he declared the public hearing closed.

Council Member Fitzpatrick advised that this is a "red letter day" and expressed appreciation to the citizens of the Roanoke Valley who continue to conserve water and support a Regional Water Authority. He commended Council for the leadership provided to City staff by allowing staff the freedom to work through the details of the project which will make a significant difference in the lives of not only Roanoke City residents, but in the lives of citizens of the entire Roanoke Valley and beyond.

There being no further discussion or comments by Council Members, Resolution No. 36608-012004 was adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, and Mayor Smith-----7.

NAYS: None-----0.

OTHER BUSINESS:

COMPLAINTS-NEIGHBORHOOD ORGANIZATIONS: A request of Ms. Sharon Sue Altice, 2815 Daleton Boulevard, N. E., to present certain neighborhood concerns, was before Council.

The City Clerk advised that Ms. Altice would like to withdraw the item at this time.

CLERK OF CIRCUIT COURT-SHERIFF-COMMONWEALTH ATTORNEY-TREASURER-COMMISSIONER OF THE REVENUE: Council at its 2:00 p.m. session, having delayed action on a report of the City Attorney with regard to a contract with the Clerk of the Circuit Court, pending preparation of the proper measure establishing the salary of the current Clerk of Circuit Court, the matter was before the body.

The City Attorney submitted a written report advising that while Constitutional Officers are not required to provide a grievance procedure for their employees, such employees may be covered by a local government's grievance procedure and be accepted into the locality's personnel system, if agreed to by the Constitutional Officer and the local governing body, which is authorized by §15.2-3008, Code of Virginia; the agreement is customarily memorialized by execution of an agreement between the Constitutional Officer and the governing body; and the City currently has such agreements with all of its Constitutional Officers, and has so contracted with the Clerk of the Circuit Court since 1980.

It was further advised that such contracts with Constitutional Officers expire when a Constitutional Officer leaves office, and new contracts must be executed by successors to the position; Brenda Hamilton, the new Clerk of Circuit Court, has proposed a contract which proposes terms heretofore not addressed in such contracts, addressing such things as courthouse access and the role of the Circuit Court in establishing work hours of the Clerk's office; the proposed contract has been reviewed by the City Manager, Director of Finance, Human Resources Manager and City Attorney, and they have no problem with the terms of the contract as proposed.

The City Attorney explained that the new City Treasurer, Evelyn Powers, has executed a contract with the City; terms of the contract are those traditionally agreed to by the City; and Council has given the City Manager the authority to execute the agreement, therefore, no further action by the Council is necessary.

Mr. Bestpitch offered the following ordinance:

(#36609-012004) AN ORDINANCE amending Ordinance No. 36313-051203, establishing compensation for the Sheriff, Treasurer, Commissioner of Revenue, Commonwealth's Attorney, and Clerk of Circuit Court for the fiscal year beginning July 1, 2003; authorizing execution of revised contracts with the Sheriff, Treasurer, Commissioner of Revenue and Clerk of Circuit Court with respect to their employees participating in the City's Classification and Pay Plans, to reflect a revised method for establishing the compensation of these officers; and dispensing with the second reading by title of this ordinance.

(For full text of ordinance, see Ordinance Book No. 68.)

Mr. Bestpitch moved the adoption of Ordinance No. 36609-012004. The motion was seconded by Mr. Cutler and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, and Mayor Smith-----7.

NAYS: None-----0.

Mr. Harris offered the following resolution:

(#36610-012004) A RESOLUTION authorizing execution of an agreement and authorizing the City Manager to extend full benefits of participation in the City's Classification and Pay Plans to the Clerk of Circuit Court and her deputies and employees, upon execution by such constitutional officers of a written agreement between the City and her, relating to the Clerk's compliance with certain City ordinances, policies and procedures.

(For full text of Resolution, see Resolution Book No. 68.)

Mr. Harris moved the adoption of Resolution No. 36610-012004. The motion was seconded by Mr. Fitzpatrick and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, and Mayor Smith-----7.

NAYS: None-----0.

HEARING OF CITIZENS UPON PUBLIC MATTERS: The Mayor advised that Council sets this time as a priority for citizens to be heard, and matters requiring referral to the City Manager will be referred immediately for any necessary and appropriate response, recommendation or report to Council.

COMPLAINTS-DRUGS/SUBSTANCE ABUSE: Ms. Sandra Jeffries, 111 Forest Park Boulevard, N. W., read a prepared statement in opposition to the proposed methadone clinic to be located on Hershberger Road, N. W. She advised that the facility may provide a needed service, but it should be located in a hospital setting and not in a residential neighborhood where children are being raised and where businesses are located. She stated that it appears that pleas from the community are being ignored and the matter should be addressed by those persons who have the authority to move the proposed methadone clinic to a more appropriate location.

In response to Ms. Jeffries' remarks, Mr. Bestpitch agreed that the location on Hershberger Road is not an appropriate site for the proposed methadone clinic. He stated that his colleagues on Council agree that if it were within the power of Council to prevent the methadone clinic from opening on Hershberger Road, the Council would have already taken the necessary action. He called attention to the importance of confidentiality for those persons who seek treatment, therefore, the facility should be established at a location such as the Veterans Administration Medical Center complex where numerous buildings are visited by persons for various reasons. He stated that when he accepted the responsibility of serving on Council, he did so with the intention of representing all of the citizens of Roanoke,

which includes those citizens who are dealing with the demons of chemical addiction and are trying to turn their lives around by getting the help they need in order to have a better future and to become better members of society.

COUNCIL-COMPLAINTS: Mr. Robert Gravely, 729 Loudon Avenue, N. W., quoted Bible scripture.

COUNCIL: With respect to the Closed Meeting just concluded, Mr. Harris moved that each Member of City Council certify to the best of his or her knowledge that: (1) only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act; and (2) only such public business matters as were identified in any motion by which any Closed Meeting was convened were heard, discussed or considered by City Council. The motion was seconded by Mr. Dowe and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Cutler, Dowe, Fitzpatrick, Harris, and Mayor Smith-----7.

NAYS: None-----0.

There being no further business, the Mayor declared the meeting adjourned at 7:35 p.m.

APPROVED

ATTEST:

Mary F. Parker
City Clerk

Ralph K. Smith
Mayor
